

Can a Lot Be Released to Allow a Farm Employee to Build?

Up to two acres may be released to allow for the construction of a house for a person essential to the farm.

Definition of Essential to Farm

A person essential to the farm is a co-owner, partner, shareholder, farm manager or family member who cultivates, operates or manages the farm under an agreement, and has a financial interest equal to or greater than one-half the cost of producing crops, livestock or products, and inspects, advises and consults with the owner on production activities, **OR** works 1,040 hours or more annually in activities connected with the production of the farm operation.

How to Make Your Request

To request the release of up to two acres, the following items need to be submitted to the Farmland Preservation Office:

- A resolution of approval from the local unit of government.
- Legal description of the lot.
- Listing, by the local assessor, of the taxable value for the past seven years for the lot to be released.
- Documents (W-2 form, Schedule F, or payroll records) which show that the person to whom the lot is being released meets the requirements for being essential to the farm.

Required Repayment

The landowner is required to repay the last seven years of tax credits, plus 6 percent simple interest on the parcel being removed. When the Farmland Preservation Office receives the repayment amount from the Michigan Department of Treasury, notification will be sent to the owner, and the parcel will be released once the amount is paid.

What Are Other Options for Releasing Land from a Farmland Agreement?

Entire farmland agreements may be released prior to the expiration date of the agreement, if approved by the local unit of government and the state, and when **one** of the following criteria are met:

- The farmland is economically inviable.
- Surrounding land usage restricts farming.
- Natural irreversible change occurs to the land, which restricts farming.
- A court order restricts farming.
- Public interest is served by the release.

(Note: Portions of agreements may be released due to public interest.)

How to Make Your Request

Request an application form from the Michigan Department of Agriculture Farmland Preservation Office. Submit the form to the local unit of government for action. If the application is approved by the local government, it is forwarded to the Michigan Department of Agriculture (MDA) for review and action. If the application is denied by the local government, that decision may be appealed to MDA. The local government may also waive their right to review the application and forward it directly to MDA for action.



Required Repayment

If the parcel is approved for release, the landowner is required to repay the tax credits taken during the last seven years under the agreement, plus 6 percent simple interest. When the Farmland Preservation Office receives the repayment amount from the Michigan Department of Treasury, notification will be sent to the owner, and the parcel will be released once the amount is paid.

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The Farmland & Open Space Preservation Program (PA 116)



Farmland Agreements Transferring, Dividing & Releasing



www.michigan.gov/farmland

The Farmland and Open Space Preservation Program is designed to preserve farmland and open space through restrictive covenants, and provides tax incentives for program participation. *(See brochure #1 Farmland Agreements-Enrollment, Eligibility & Benefits for more information.)*

This is part two of a two-brochure series explaining how a landowner may revise or terminate a farmland agreement if it becomes necessary.

May I Sell My Land if it is Enrolled in a Farmland Agreement?

A landowner is free to sell his/her land. However, the agreement remains with the land. The agreement may be transferred, as long as the new owner agrees to comply with the provisions of the agreement, and ***as long as all of the land described in the agreement is conveyed to the new owner.***

Transferring Your Agreement

When enrolled land is conveyed to another party, submit the following to the Farmland Preservation Office:

- Copy of the deed or land contract used to convey the land to the new owner.
- Fee of \$25.00 per transfer.
- New owner’s address (if different from the deed) and social security number(s).

When this information is received, a new agreement will be sent to the new owner for signing.

May I Divide My Farmland Agreement?

A farmland agreement may be split into smaller agreements provided the request is consistent with the intent of the act.

Minimum Requirements

To split an agreement, **each** of the resulting parcels must meet **one** of these criteria:

- Larger than 40 acres in size.
- At least five acres, but less than 40 acres, and a minimum of 51 percent tillable land, and producing a gross annual income in excess of \$200 per tillable acre.

How to Make Your Request

To request division of an agreement, submit the following to the Farmland Preservation Office:

- PA 116 agreement number of the parcel to be split or divided.
- Legal descriptions for each parcel that will be placed in a separate agreement.
- Number of acres in each parcel.
- For parcels greater than five acres but less than 40 acres, list the number of tillable acres in each parcel, and the gross annual income per tillable acre. (Parcels in CRP are considered to meet the gross income requirement.)
- There is no charge for the first division or agreement split. However, any additional splits are charged \$25.00 per agreement.

Approval

If the parcels meet requirements, new agreements will be sent to the agreement holders for signing.

Can Land Be Released from the Program Due to Death or Disability?

It is possible to release property from the program when the landowner dies or becomes disabled. A request to release property must be made within three years of the date of death or disability.

Release Due to Death

The person who becomes owner due to the agreement holder’s death must submit a copy of the death certificate to the Farmland Preservation Office. Termination due to death may be requested for a single agreement or multiple agreements or for a preexisting building with up to two acres.

Release Due to Disability

An owner requesting a disability termination submits a signed statement from a physician indicating the type and severity of the disability, and whether the condition represents total and permanent disability as defined in the program’s administrative rules.

*A request for disability termination must be for **all of the land enrolled in the program in the disabled person’s name, OR** just for preexisting buildings with up to two acres.*

Partial Release Due to Death/Disability

To request a partial release of agreement, submit the following documents:

- Legal description of the parcel to be released.
- Listing, prepared by the local assessor, of the taxable value of the parcel for the past seven years.
- Letter from the assessor indicating that buildings were present prior to the beginning of the agreement.

Required Repayment

To complete the release of the parcel, the requester must repay a prorated share of the tax credits taken during the last seven years, attributable to the parcel being released. When the Farmland Preservation Office receives the repayment amount from the Michigan Department of Treasury, the owner will be notified, and the parcel will be released once the amount is paid.

Can a Lot with Preexisting Buildings Be Released from an Agreement?

Up to two acres may be released from a Farmland Agreement when there are ~~buildings in existence~~ ***buildings in existence which were present prior to the start of the original agreement.***

How to Make Your Request

To request such a release, the following items need to be submitted to the Farmland Preservation Office:

- Resolution of approval from the local government.
- Legal description of the lot to be released.
- Listing, by the local assessor, of the taxable value of the building(s) and lot for the past seven years.

Required Repayment

To complete the release of the building(s) and lot, repayment is required for the tax credits taken during the last seven years, plus 6 percent simple interest on the parcel being removed. When the Farmland Preservation Office receives the repayment amount from the Michigan Department of Treasury, the owner will be notified, and the parcel will be released once the amount is paid.